

**REMARKS/ARGUMENTS**

Favorable reconsideration of this application is respectfully requested in view of the foregoing amendments and the following remarks.

Claim 3 has been canceled without prejudice or disclaimer of the subject matter contained therein. Claims 1-2 and 4-5 are pending in the present application, of which claims 1, 4, and 5 are independent.

With appreciation, it is noted that the Office Action indicates (see Office Action dated February 18, 2010) claims 1, 2, and 4 as containing allowable subject matter. Claims 1, 2, and 4 have been amended to clarify the claims, but it is believed that the subject matter recited therein is still allowable.

**Noted - Priority Document Received By USPTO**

The indication (see Office Action dated November 1, 2007, Office Action Summary boxes 12 and 12.a) that the certified copy(ies) of the priority document(s) has been received by the USPTO is noted with appreciation.

**Noted - Drawings Approved**

The indication (see Office Action dated September 16, 2008, Office Action Summary boxes 10 and 10.a) that the Drawings (submitted on May 13, 2008) have been approved is noted with appreciation.

**Claim Rejections Under 35 U.S.C. §112**

Claim 3 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite. By the foregoing amendments, claim 3 has been canceled. Accordingly, this rejection is now moot.

**Claim Rejection Under 35 U.S.C. §103**

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tomar et al. (U.S. Patent # 6,804,248 B1) in view of Yu (U.S. Patent Application Publication # 2001/0043603 A1), and further in view of Patenaude (U.S. Patent Application Publication # 2004/0076168 A1 ). As claim 3 has been canceled, this rejection is now moot. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tomar et al. (U.S. Patent # 6,804,248 B1), in view of Zelig et al. (U.S. Patent Application Publication # 2002/0110087 A1), and further in view of Patenaude (U.S. Patent Application Publication # 2004/0076168 A1 ).

**INDEPENDENT CLAIM 5**

As an example, independent claim 5 recites (among other things) a feature of “inputting an Ethernet frame having a VLAN identifier corresponding to a path identifier of a synchronous optical network to give the path identifier to the Ethernet frame in the node among the plurality of Ethernet frames passes through to be multiplexed.” As will be explained below, at least this feature of claim 5 is a distinction over each of Tomar, Zelig and Patenaude, and thus over their combination.

Regarding Tomar, Tomar generally discloses SONET data transmission and conversion. However, Tomar does not disclose or suggest “inputting an Ethernet frame

having a VLAN identifier corresponding to a path identifier of a synchronous optical network to give the path identifier to the Ethernet frame in the node among the plurality of Ethernet frames passes through to be multiplexed.” Hence, the noted feature of claim 5 is a distinction over Tomar.

Regarding Zelig, Zelig discloses, in FIG. 1, a point-to-point Ethernet service connection between a first user 23 and a second user 25 that is set up via MPLS tunnels 34 and 35 through network 22. User 23 is connected to network 22 by an Ethernet connection to a first access switch 26. However Zelig switch 26 or LSR switch 26 do not disclose that a VLAN Ethernet frame having a VLAN identifier is converted into synchronous optical network frame having a path identifier when the VLAN identifier is related to the path identifier in a connection. The Examiner states that “[t]he (signaling) message preferably includes a type field, indicating to switch 32 the type of service: point - to-point, TLS, SONET over MPLS, etc. An additional index is typically added to the signaling message to specify the range of VLANs for Ethernet services, or the number of the SONET path.” However, Zelig does not disclose or suggest that a VLAN identifier is corresponding to the number of a SONET path for communication between user 23 and user 25. Hence, the noted feature(s) of claim 5, namely “inputting an Ethernet frame having a VLAN identifier corresponding to a path identifier of a synchronous optical network to give the path identifier to the Ethernet frame in the node among the plurality of Ethernet frames passes through to be multiplexed”, is a distinction over Zelig.

Regarding Patenaude, Patenaude discloses an integrated circuit device for use in connecting synchronous optical networks to packet networks. The device contains a SONET/SDH compatible optical carrier framing, cross connect, and packet mapping

functionality. It supports Ethernet packet network connection and DS1/E1 and DS3/E3 time division multiplexed subscriber circuits. However, Patenaude does not disclose or suggest “inputting an Ethernet frame having a VLAN identifier corresponding to a path identifier of a synchronous optical network to give the path identifier to the Ethernet frame in the node among the plurality of Ethernet frames passes through to be multiplexed.” Hence, the noted feature of claim 5 is a distinction over Patenaude.

As a result, the noted feature of claim 5 is a distinction over the combination of Tomar, Zelig, and Patenaude.

Among other things, a prima facie case of obviousness must establish that the asserted combination of references teaches or suggests each and every element of the claimed invention. In view of the distinction of claim 5 noted above, at least one claimed element is not present in the asserted combination of references. Hence, the Office Action fails to establish a prima facie case of obviousness vis-à-vis claim 5.

In view of the foregoing discussion, the rejection of claim 5 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

Each of the claims now pending in this application is believed to be in condition for allowance. Accordingly, favorable reconsideration of this case and early issuance of the Notice of Allowance are respectfully requested.

**Conclusion**

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below.

Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 50-4545 (5243-002-US01).

Respectfully Submitted,

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